G. R. S. IX-5]

Previous references.

S 762-20-112

1922

(S 7)

S7 File No. 62-20.

Serial Nos (3-10)

Later references.

G 7. 4-22 at 101-103

S 7-95-31 (102)

I & A 640-26

S 8-37-51

25.10.23

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 8.

Preserved

63/62

Part B for February 1924

SUBJECT.

Dispensing with the services of Mr. S. Krishna Murthy Rao 1st grade accountant of the Comptroller's office

---

To the Comptroller no. H3117-8910-1223

Sanctions a Compassionate allee of Rs 13-3-0 from date of removal from service

GENERAL AND REVENUE SECRETARIAT.

(67)

NOTES.

File No. 62-20

FILE HEADING.

Dispensing with the Services of Mr S Krishna murthi Rao, I grade accountant of the Compt's office.

From

Mr S. Krishna murthi Rao

No. Dated 6.4.21 Received 7.4.21.

Diary No. 3884	Enclos.	Spare Copies.	Serial No. 3

BRIEF ABSTRACT OF LETTER.

Requests that his case may be reconsidered in the light of the endorsement given by the Dist & Sessions Judge, Mysore and that his pay from the date of his suspension may be paid to him and that he may be reinstated in service

NOTES AND ORDERS.

~~For~~ Order

Subd with the file re the dismissal of S. Krishnamurthi Rao.

8R 18/4. It is not clear under what provision of the law the D.J. has given an endorsement

TSN 19/4.

3884 (2)

G. R. S. III-2,

General and Revenue Secretariat. | Jy F File No. 62 of 1920-24.

Serial No.

The applicant, explaining the ~~Extract~~ line meaning and intention of his proposal based in Open Court, and whether such explanation is to be accepted as binding -

After a perusal of the proposal of the D.J. pol: have approved of the Complr recommendation for dispensing with the service of the applicant - And there are no fresh or new facts brought to light for a reconsideration of the order -.

The request for resignation and for the grant of the pay from date of suspension cannot be refused -

If the applicant had not been given any subsistence allowance for the period of his suspension, that - concession may perhaps be allowed to him - Vide art. 122a,

18 Jan

10/8/24

I think this has been given - Please find out from Comptr's file

Note 7-6-21 3458 G/5

Yes

NOTE—Contn. sheet.

3884

(3)

G. R. S. III-2.

General and Revenue Secretariat. | G.7 File No. 62 of 1920.

Serial No.

It is ascertained from the comptroller's office that a subsistence allowance of Rs. 25 ie 1/4th of the pay was given to the applicant from 1-12-16 to 1-5-1919. His application for the continuance the subsistence allowance was ~~discontinued~~ refused by the Compt^r under the provisions of ~~the~~ art 122 of the M.S.R Subd

SR 9/6.

Jesey) 18 16/6/4

15/6/21

3727 17/6

His memorial to the Dewan Subd on 9-7-21 is also placed in the file. In his petition of 6.4.21 and in his memorial of 9.7.21 he asks for reinstatement. The Compt^r recommended that the main service be dispensed with and his proposal was accepted. Now the memorialist produces an endorsement given by the Sessions Judge stating that his judgment should not be understood as not honorably acquitting him whether any Concession should be shown to him in view of

× What is sent is only a copy. The original of the regd to be produced & any Concession is to be shown on the strength of the opinion expressed by the Judge

NOTE—Contn. sheet.

3884 163 (4)

G. R. S. III-2]

General and Revenue Secretariat.

97 File No. 62 of 1920.

Serial No.

Opinion expressed by the Judge is the point for orders. Reinstatement is undesirable for reasons stated by the Complr. If any Concession is to be shown in view of the Judge's opinion referred to above the Complr may be consulted as to what he would recommend

mmh 21-7-21

DEWAN'S OFFICE.
Recd. on JUL 13 1921
Reg. No. 283

Dewan Sir
ccen.
16.7.21.

Please address the Complr accordingly
mmh 17.7.21

Before addressing Complr Please ask Petrs to send the original Judge's memo for ref.
mmh 19.7.21

Submit with draft to Petr
SR 19.7

NOTE—Contn. sheet.

G. R. S. III-2]

General and Revenue Secretariat.

Q.7 File No. 62 of 1920

Serial No.

4 To: S. Krishnamurthi Rao.
H 450 dt 27.7.21
Asks for the original endorsement given by the Dt Sessions Judge.

5 From. S. Krishnamurthi Rao.
dt 28.7.21.
Forwards the endorsement given by the Dt Sessions Judge, Mysore (in original) for reference & return.

Sd/-
28.7.

H.W.O. 1964/21 Forwarded to Govt with Compliments & Compln for the recommendation - Vide Copies — to
1337/21 28/7
B Secretariat Typist
Dft Clerk
Memo No: 98/R dt 22-9-1921
30/9

The judgement of the Dt Sessions Judge on which this office recommended the dismissal of the applicant from service which was also sanctioned by Govt, was sufficiently clear for all practical purposes, and no further elucidation ~~was necessary~~ of it from the Judge was necessary. However as it has been offered now by the Judge, it is for the Govt to accept or reject it,

NOTE—Contn. sheet.

163
D 387

(6)

R. S. III-21

General and Revenue Secretariat. | File No. 62 of 1920.

Serial No.

under the circumstances. Even the interpretation is not given in positive language, but is expressed only by two negations which do not necessarily convey a positive meaning.

The applicant has been away from duty for more than 5 years under circumstances very well known and it is not desirable or expedient to take him into service now. He has already been given a retrenchment allowance of Rs 25/- p.m. till the end of April 1919. I think the requirements of the case will be fully met if Mr. Kris Iswaramurthi is regarded as having been retired from service thenceforward (i.e from May 19) and given a compassionate allowance equivalent to the amount of pension otherwise admissible for the period of his service.

I have the honour to be
Sir
Your most obedient servant
Sd/- G. Comptroller

21.9.22.

Record

COMPTROLLER'S OFFICE
104
28 SEP 1921
CEYLON

Yes.

What the amount referred to at A would come to may be calculated & noted. The petitioners pay at time of his suspension only should be mentioned

22.9.22

W.O. 248-924

NOTE—Contn. sheet.

28/9/24

Comptr) 28.9.22. MEL 7.9.22

14692 (7)

G. R. S. III-2]

General and Revenue Secretariat. | File No. 135. R 50 Mc.M.D 1921 | of 19

Serial No. 910

Dy 8 11 21

REV. SEC. 10 NOV 1921

Returned with compliments.

Mr. S. K. Murthi Rao has put in a temporary service of 1 year 11 months and 24 days before confirmation as Range Cashier on 27th October 1899. He was suspended from 1-12-16 and his substantive pay on this date was Rs.70/-. During the period of his suspension he was confirmed on Rs.100/- with effect from 26-2-18. He was in receipt of subsistance allowance of Rs.25/- per month till end of April 1919 and his services were ordered to be dispensed with Vide G.O.No.FL.2733 dated 5th October 1920.

For a qualifying service of 17 years 3 months and 17 days, from the date of his confirmation to the date of his suspension, Mr. K. Murthi will be entitled to a pension of Rs.19-13-0. If the applicant is allowed the benefit of Article 289 (2)M.S.R. and permitted to count half the period of his temporary service, he will be entitled to a pension of Rs.21/-. If Government, under Article 282, permit the period of suspension (which under Article 281 (b) would not ordinarily count) being counted, he will be entitled to a pension of Rs.25-14-0 for his service of 19 years 7 months and 17 days from the date of confirmation. If moiety of the temporary service is added and counted along with the period

under

(6)

General and Revenue Secretariat. | G.O. File No. 62 of 1920.

Serial No.

under suspension, he will be entitled to a pension of Rs.27-4-0.

Comptroller.

(Vide ant 240 MSR in the Ed. underprint)

In cases like this only 2/3rds of the pension admissible can be given. This is not also a case for the grant of other Concessions like counting temporary service or period of suspension. The Comptr states that the ordinary pension admissible is Rs 19-13. 2/3rds of this rounded to the nearest anna is Rs 13-3-0 and this may be sanctioned.

DEWAN'S OFFICE. Regd. on NOV 15 1921 No. 2801

Dewan)

Secy)

27-11-21

NOTE—Contn. sheet.

G. R. S. III-2]

General and Revenue Secretariat.

S 3 File No. 62 of 1920.

Serial No.

2801

I should like to be favoured with the opinion of the Third Member as to whether the District Judge was in order in offering a commentary on his own judgment on the application of the party interested. It is obvious that such a practice is likely to lead to highly undesirable consequences if not discouraged.

17.11.21

3027
21.11.21

A

I do not think that [illegible] an extra judicial interpretation [illegible] judgment [illegible] judge does not appear [illegible]

24/11/21

DEWAN'S OFFICE,
Recd. on NOV 25 1921
Reg. No. 2985

Dewan)

[illegible]
28/11/21

[illegible]

27.11.21

[illegible]

(1) Sg [illegible]

(2) [illegible]

25/11

NOTE—Contn. sheet.

[illegible]
25/11/21

381

(10)

G. R. S. III-2]

General and Revenue Secretariat. | G. 7 File No. 62 of 1920.

Serial No.	
	Subd with two drafts. ~~file~~ SR 30.11. H See 3 3rd 7/12/21
1379 3/12	Jan drafts thee placed in file, 5/12/21
7	To. The comptroller. Copy to the Petitioner. H 3117-8 Dy 10.12.21. Sanctions a compassionate allowance of Rs 13-3-0 from date of removal from Service.
6	To. Mr. Nagappa. H 3116 Dy 10.12.21 States that the endorsement given by him to Mr S. Krishnamurti Rao is not in order.
8	To. The Registrar. Chief court. H 3325 Dy 29.12.21. Forwards the above for information:

NOTE.—Contn. sheet.

381
2715 2823. 3 V (11)

G. R. S. III-2]

General and Revenue Secretariat.

G.7 File No. 62 of 1920.

Serial No. 9

From.

Mr. S. Krishnamurti Rao

Petn dy 14.12.21.

Requests that the original endorsement given to him by the Dist & Sessions Judge, Mysore, may be returned to him.

The original endorsement was called for in H no 450 dy 27.7.21 for reference and return. A copy of the same is placed in the file. The original may perhaps be returned.

Submitted with draft.

SRS 3.1.21.

Some 4/1/22

Serial 10.

To. Mr. Krishna Murthi Rao

"Lakshmi Vilas, Chamarajpet

Mysore. Endorsement

No: H: 3396 dated 6/1/22

Returns the original endorsement No 1095/820 of 26.3.21 given to him by the Dist. & Sessions Judge.

NOTE—Contn. sheet

3048

(12)

G. R. S. III-2].

General and Revenue Secretariat.

Q-7 File No. 62 of 1920.

Serial No.	
	Subd with draft SRJ 25.1. Fe Secy) Done 25/1/22 1779 26/1 Amdt Secy to Pres Chief Court. Should have been sent by Chief Ct explaining the circs in which the first copy was not so sent. The Asstt Secy was not right in sending a copy for information to Chief Court without any allusion to the need for following this procedure Done 1-2-21
Under Note 26/12/21	
By Order	

NOTE—Contn. sheet.

(13)

G. B. S. III—3]

ROUTINE NOTES.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

-S. K & M. S. R. for explanation as to why Narasayana Iyengar's remark dt. 9-12-24 was not entered in the fair copy.

x Letter to be sent thro' the Librarian kindly see Manuscript & Proof

N.B.—Should routine notes be written on small slips the notes must be copied, or slips pasted on this form.

When the Fair Copy was returned signed by the H. Secy. along with the P.E. Dr. Raghunadha Rao, who was the Accountant who dealt with the P.E. Came back from his leave and handed over charge of the P.E. to him. Dr. Rao to enquire of further progress

(14)

G. R. S. III—3]

ROUTINE NOTES.

[To be used only for notes, requisitions, etc., not intended for permanen record.]

I did not compare the fair copy and was not in the office when the letter was despatched.

SRS
23/12.

Submd

A regrettable mistake was committed by the Branch and suitable notice may be taken of the conduct of the official, Neither ms. S. K. or Shuddapore took any trouble to follow the instructions given on the draft from the fair copy when it was signed by the AC Resy.

If approved, A copy of — RC 3116-20. D 20-R 24 with its enclosure may be sent to the Collector for information

N. B.—Should routine notes be written on small slips the notes ~~must be clipped, or slips pasted on~~ this form.

Draft may be sent to Govt for information. The despatch may be taken out of the file submitted

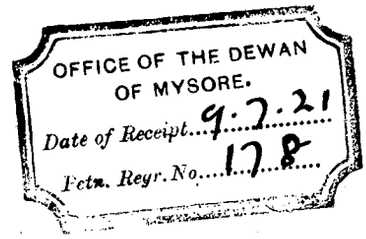
SRS 26/12

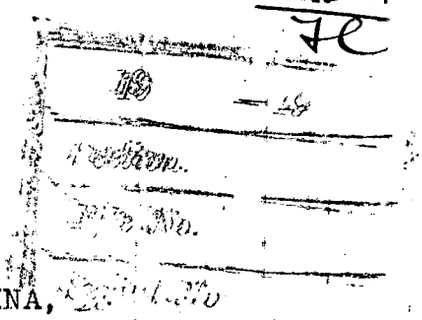
ms
4-12-21

ms S.K. ms S.R.
Shuddapore
The Asstt Resy
ms
26/12/21.

wants detailed explanations from Shuddapore
Please submit

(15)





Received 9.7.21

To.

HIS EXCELLENCY RAJASEVADHURINA,
Sirdar, Sir M. Kantharaja Urs, [illegible]., B.A., C.S.I.,
Dewan Saheb of Mysore,
B A N G A L O R E.

To the Financial Secretary
with Compliments
B.O.
9/7/21

The humble memorial of S. Krishnamurthi Rao, 1st Grade Accountant, belonging to the Establishment under the Comptroller to the Government of Mysore and attached to the Office of the Superintendent of Krishnaraja Sagar Works.

YOUR EXCELLENCY,

1. I was an Accountant as stated above and was elected as Honorary Secretary to the Krishnaraja Sagar Works Co-operative Society in December 1912. Certain charges were brought against me as Secretary on 30-11-1916 in the Sub Divisional Magistrate's Court, Mysore Division, and I was placed under suspension. This case was pending decision up to July 1920, when I was acquitted by the District and Sessions Judge of Mysore who set aside the conviction and the sentence wrongly passed by the Sub Divisional Magistrate.

2. On applying to the Comptroller for permission to join my appointment, I have been informed that my services have been dispensed with for reasons stated in Comptroller's letter No. 360/R. dated 25/28th August 1920, Copy of which is herewith submitted for ready reference.

Your

(16)

Your Excellency will be pleased to see that the - - Comptroller has based his recommendation (1) upon the judgment of the Sub Divisional Magistrate which became null and void having been set aside by the Appellate - authority the Sessions Judge of Mysore and (2) upon his own uncharitable interpretation of the last but one - - sentence in the judgment of the Sessions Judge. To my great misfortune the Comptroller took the judgment of the Sessions Judge in the light of one of conviction so far - as the portion of the sentence said to have previously -- undergone was concerned and consequently recommended my removal from service. On this I applied to the District Judge to favour me with his meaning of the portion of his judgment that has been adversely interpreted by the - - Comptroller, so as to convert the judgment itself from one of acquittal into one of conviction.

3. The District Judge's endorsement No.4095/820 dated 26-3-1921 to my petition, explaining his meaning of the sentence in his judgment, depended upon by the - - Comptroller, as being adverse to me, is appended for Your Excellencey's kind perusal. It would be now clear -- beyond all doubt, that I have been honorably acquitted by the Judge, but on my applying to the Comptroller in person, with the enclosed endorsement, he was pleased to tell me that he was not prepared to reopen the question and that his recommendation for dispensing with my services was - based upon his own view of the case as Head of the - - Department.

4. From his letter to Government No.360/R. dated 23/28th August 1920 referred to in para 2 above, Your -- Excellency will be pleased to see that the recommendation

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of the Comptroller was entirely based on the judgment which is now, beyond all doubt explained to be one of honourable acquittal. Apart from the charge brought against me by the Co-operative Society which has been found to be false, there was no case of any kind against me officially and Departmentally and I have not been called upon to explain any charge in any connection. As can be seen from the recorded opinions of the several officers whom I had the privilege to serve, I have during the whole of my past service, discharged my duties to their entire satisfaction and maintained an umblemished character. As Cashier in the late Marikanave Works, where I had to make cash payments to labour to the extent of several thousands of rupees every week and as Accountant for about 17 years, I was never found fault with as being dishonest or untrustworthy. Incompetency and incapacity were never attributed to me. I have not served the present Comptroller at all at any time, yet he says that he has his own view of me. As I have not been able to get reinstated in my place in the Department though I am fully deserving of the same, I have approached Your Excellency through this Memorial with the hope and prayer that I may be reistated in service upon a proper consideration of my case and the pay due to me from the date I was placed under suspension up to now be ordered to be disbursed.

5. If the Comptroller be unwilling to have me in the Accounts Department, I may be transferred to any other Department of the State. For which act of

kindness

kindness I shall, as in duty bound, ever pray for - Your Excellency's long life and prosperity.

6. A copy of the Judgment of the Sessions Judge is also enclosed for kind perusal.

I most respectfully beg to remain,
Your Excellency,
Your Excellemcy's most obedient and
humble servant,

S. Krishnaswamy Iyengar

M y s o r e, " Lakshminivas" Chamarajapet,
M Y S O R E.

Dated 9 ~~April~~ 5 July 1921.

(19)

No.4095/820 Encl.2 Dated 26th March 21.

ENDORSEMENT.

With reference to his application dated 4th March 1921, S. Krishnamurthi Rao, "Lakshminivas," Chamarajapet, Mysore, - is informed that the undersigned takes it that the applicant has approached this Court with a request to say what is the meaning of the para underlined in the judgment in Mysore - Criminal Appeal No.45 of 1918-19 and whether he has been - honorably acquitted as required under Article 122 (b) of the Mysore Service Regulations.

-----ooOoo-----

After perusing the records and the interpretation put upon the judgment in question by the Comptroller, the undersigned is bound to state that the language used in the last para but one of the judgment does not indicate that there is a doubt as to the guilt of the offence of Criminal breach of trust committed by the accused. It is clear from the findings that the prosecution failed to establish that the - - accused was entrusted with the property with dominion over it and that the accused misappropriated such property dishonestly and in violation of any direction of law prescribing the mode in which such trust was to be discharged. In other words the prosecution did not establish the elements constituting the offence punishable under section 406 I.P.C. Hence the accused was acquitted. He was not given the - - benefit of doubt. Under these circumstances the undersigned is not prepared to say that the accused was not honorably - acquitted. The enclosures to the application are herewith returned.

Sd/ B. Nagappa,

District & Session's Judge.

M y s o r e,

Dated 23rd March 1921.

" C O P Y "

(20)

Copy of letter No.360/R dated 23rd/28th August 1920, from the Comptroller to the Government of Mysore, Bangalore, to the Financial Secretary to Government, Bangalore.

---oooOooo---

I have the honour to state that Mr. S. Krishna Murthi Rao, a First Grage accountant of this office, while working in the office of the superintendent, Dam works, Krishnaraja Sagara, was placed under suspension with effect from 30th November 1916 on a report of arrest in connection with a case of misappropriation of money lodged against him by the Co-operative Society of the place before the Sub-Division Magistrate, Mysore Division. The facts of the case are set forth in the judgmentof the Sub Divisional Magistrate, Mysore. Copies of judgments passed in the aforesaid court, as well as the appellate court viz., District and Sessions Court, Mysore Division, are herein enclosed. It will be seen from the above that he was sentenced by the Sub Division Magistrate to one year's simple imprisonment and a fine of Rs.300/- or in default to suffer additional simple imprisonment for 6 months more. In appeal to the District and Sessions Court, Mysore, he was acquitted in July 1920 the Judge observing that the case presented an element of doubt as to the trust or dishonesty and as such a retrial was unnecessary in his case especially as he has suffered imprisonment and a decree had already been passed against him for the amount.

The accountant has now applied for reinstatement in his former appointment. In view of his having been found guilty by the lower court; and the appellate court having acquitted him with the observation that a retrial in his case was unnecessary especially on account of his having already suffered imprisonment and a decree having already been passed against him for the amount alleged to have been embezzled, I consider it unsafe to retain such a man in service in the Account Department, and recommend therefore that he may not be reinstated in his appointment, and that his services be dispensed with.

Sd/

Superintendent, Records
Section, Comptroller's office

"C O P Y"

In the Court of Sessions, Mysore Division.

(21)

Dated, Mysore, 12th July 1920.

Present:- B. Nagappa, Esquire., Barrister-at-Law,

Sessions Judge.

Mysore Criminal Appeal No. 45 of 1918-19 against the convic--tion and sentence passed by the 1st Class Magistrate, - - Mysore Sub Division in Criminal case No. 36 of 1916-17 under -- section 406, I.P.C.	Appellant. S.Krishna Moorti Rao. (Accused)

The appellant was charged with having committed Criminal breach of trust an offence punishable under section 406, I.P.C.

2. The Magistrate found him guilty of the said offence and sentenced him to suffer simple imprisonment for one year and to pay a fine of Rs. 300/- and in default, to suffer additional simple im--prisonment for six months.

3. The grounds of appeal are:-

(1) The Magistrate erred in convicting the appellant of Cri--minal misappropriation or Criminal breach of trust, the charge against the appellant being that 'he being entrus--ted with property dishonestly used the same in violation of the direction of Law prescribing the mode in which such trust is to be discharged' while the finding of the Magis--trate is 'that the appellant dishonestly in violation of the trust reposed in him misappropriated the Society's Goods'.

(2) The Magistrate erred in holding that "it was revolved at a meeting in May 1915 that as the accounts of the Society were found to be in an unsatisfactory state, the appel--lant should be removed and P.W. 3 appointed in his place

(22)

(3) The Magistrate erred in holding that after all deductions are allowed the appellant had to account for Rs. 400/- being the value of goods and that this was the plea of the accused.

(4) The Magistrate erred in not giving due importance to and his finding on, the omission of the prosecution to produce the resolution of the Committee for disposing of the old articles in the Society. He further erred in not granting the application of the appellant to examine the Committee Members on this point.

(5) The Magistrate erred in holding that the appellant did not send Society's articles to Nathmal and Company in Mysore for sale on behalf of the Society. The Magistrate is wrong in attaching any importance to the absence of entry in the Society's books, Registers, etc., relating to the said sending of the goods as there was no book or register in which such entry could be made.

(6) The Magistrate erred in holding that the appellant did not inform any office bearers of the Society about the said sending of the Goods to Nathmal and Company.

(7) The Magistrate failed to notice the fact that the omission to specify the name of the firm of Nathmal and Company, was due entirely to the conduct of the office-bearers of the Society, and his remarks on this point are unsound and incorrect.

(8) The Magistrate erred in not believing the evidence of D.W No. 1 and 2 and especially of D.W. 3 in the matter of goods having been given to D.W. 3 and his reasoning on this point is not sound. The Magistrate erred in dis-believing D.W. 3 Dalichind who is the Chief Manager of Nathmal & Co., which is a well established and respect-able firm in Mysore, simply because he could not at once produce his account books. He further erred in remarking that the appellant could have arranged to get these books. In this connection the Magistrate has entirely failed even to notice the evidence on D.Ws 4 and 5 and exhibits 23, 24 and 25 and the Accounts Books of the Society as also the admissions of the complainent before the Arbitra-ters.

(9) The Magistrate erred in thinking that the accused had accounts, but would not produce them and so the provi-sions of section 114, Ind. Evidence Act apply to this case. The Magistrate has failed to notice that it was the prosecution that summoned D.W. 3 to produce the accounts.

(10) The Magistrate erred in not issuing summonses to all the witnesses relied upon by the appellant.

(11) The Magistrate erred in Law in framing a charge under section 406, I.P.C. against the accused when the prosecu-tion had failed to prove dishonesty on th accused.

(23)

(12) The Magistrate has not properly appreciated the evidence and probabilities of the case, and his judgement is - - opposed to Law, facts and justice.

4. This is an apeal from the judgment and sentence of sub--DivisionalMagistrate, Mysore, passed on the appelant for an offence under section 406, I. P. C.

The charge is a curious one and runs as follows:-

" That you the said S. Krishnamurthy on or about the 22nd day of August 1915, at Krishnarajasagara being entrusted with pro--perty to the value of about Rs. 400/-, dishonestly used that property in violation of the direction of Law prescribing the mode in which such trust is to be discharged and thereby committed an offence pun--ishable under section 406, of the Indian Penal Code and within my cognisance".

The Magistrate finds that the appelant dishonestly misap--propriated, in violation of the trust reposed in him, the Society's goods that were found missing when he handed over charge. He therefore found him guilty under section 406.

The first objection raised to this conviction is that there is no trust created in respect of the property in question in that the appellant was chosen Honorary Secretary of the Co-operative - - Society to excercise acts of supervision over clerk and peon who had custody of the property.

The second objection is that there is no finding of when and how the appellant criminally misappropriated the sale proceeds and nothing to show dishonest int ention for he admitted the sale to a Firm in Mysore on behalf of the Society.

The third objection is that the charge is defective and misleading and that no conviction can be had upon that charge for the

e

(24)

for the alleged misappropriation of the sale proceeds of the proper--ty that was found missing.

5. There is considerable force in these objections. There is no finding as to when and how the accused Criminally misappropriated the sale proceeds. As to the third objection the charge cannot -- possibly relate to the alleged misappropriation of the sale proceeds Unless it be shown that the appellant had the dishonest intention of appropriating the sale proceeds at the time of sale, he cannot be held guilty of misappropriation of the sale proceeds. (See Balha--sar Vs. Emperor, 41 CALCUTTA 844). It has been held therein that section 405 I.P.C. does not cover misappropriation by a person of the sale proceeds of the property entrusted to him.

6. (There is no evidence that the appellant dishonestly used any property entrusted to him. There is no such finding by the -- Magistrate). The evidence shows clearly that the clerk was in - - charge of the stores where goods were kept and the appellant was - - exercising acts of supervision over the goods of the Society.

7. From the rules of the Society and from the evidence on the record, it is difficult.to find that the appellant was entrusted with property in question or dominion over it. Indeed the Magis--trate has not recorded any such finding on that point. The Public Prosecutor has failed to convince me that the evidence on the re--cord establishes any trust in respect of the property. All that the prosecution witnesses say is that the appellant was responsible for the goods of the Society. It may well be that he may be res--ponsible to pay for the goods if they are lost or missing for want of his supervision. This does not involve him in criminal liabi--lity for breach of trust. Unless the prosecution shows that - -

(25)

that a trust was created, no criminal liability attaches.

8. The 1st and 3rd objections must, therefore, prevail and render the conviction bad in Law. There seems to be another aspect of the case which, in my opinion, renders a re-trial unnecessary.

9. "The offence of criminal breach of trust is completed - - (assuming a preliminary trust) by the misappropriation or conver--sion of the property dishonestly, i.e. with the intention of cau--sing wrongful gain or wrongful loss. It is only the intention -- which is essential. Whether wrongful gain or loss actually results is immeterial, it is consequence, but no essential part of the - - offence, and a person is not accused of the offence by reason of -- it". (See Re Hambilas 38 Mad. 639, at page 641).

10. In the present case, the applicant admitted on 11th November 1916 before the Arbitrators that he "was responsible for the -- number of articles and not their cost as it would fluctuate accor--ding to the market value"..... He further stated as follows " I own that the value of stock shown in the final audit is Rs - - - 568-5-9. I depend upon the figures and admit the figures as - - - correct. This consists (of) the value of certain articles that -- were spoiled and of articles that I have stated in one of my letters as having been given to a Merchant at Mysore for sale and of the -- value of the revolver. I would estimate the value of articles -- spoiled at about Rs 150/-. The cost of the revolver is about Rs 45/- And the balance should necessarily be the value of articles sent -- out for sale as I have already stated in one of my letters, that I did not keep a correct account of these articles. Deducting - - Rs 150/- being the value of spoiled articles I concent to pay to--wards the deficiency of stock a sum of Rs 418-5-9.". (vide Exh. P6)

(26)

11. There appears to have been a decree made against him in respect of this sum as well as for other amounts. The charge now framed against him is in respect of property valued at Rs. 400/- as admitted by him as shown above. This admision was made on 11th - - November 1916 and the complaint was preferred on 30th November 1916. Before this the appellant has not denied the appropriation and has in fact pleaded that he sent these goods to a merchant for sale in his capacity as a Secretary and that he discharged the debts due by the Society out of the sale proceeds.

12. It may be that he had no right to send the goods for sale. This does not affect the question of intention, since he has admi--tted appropriation of property. His admission negatives any dis--honest intention. In John Norman (1842) Carrington and Marshman 501, Crosswell J, stated - "Embezzlement necessarily involves se--cresy; the concealment, for instance, by the defendant of his - - having appropriated the money. If instead of denying his appro--priation a defendant immediately own it, alleging a right or an -- excuse for, retaining, for the sum detained,no matter how frivolous the allegation, and although the fact itself on which the allegation rests were a mere falsification, as if in the present case although it should turn out that there was no such difference as that asser--ted by the defendant between the tonnage as measured at Swansen and at Plymouth, or that there was no such custom as that set up, I do not say to what species of offence this may amount, but, in my opi--nion, not to embezzlement".

13. The grounds of exoneration may be overstated. But it is clear that if the accused bonafide believed in the step taken by -- him, it could not be dishonest. (1 Hale P.C. 507. Holloway 5 C & P. 524,). The cases decided in England show that the denial of - -

of receipt or absence of entry is insisted upon as necessary to establish a charge of embezzlement. (Per Bolland B. in Jones 7 C & P. 34 Normen C. and M. 501).

14. In Brinbadhur Putnaik 5 W.R. 21, it was pointed out in the case of a Salt Daroga, that the mere fact of their being a -- large deficit in his charge was not sufficient to fasten on him -- criminal liability under section 409 for which there must be dis--tinct proof of a criminal misappropriation. Such a person may have been negligent, but negligence may be good ground for civil liability, but does not suffice to establish a criminal charge of this magnitude.

15. At any rate this case presents an element of doubt as to the trust or dishonesty and as such the re-trial is un-necessary, especially when the appellant had already suffered imprisonment and a decree had already been passed against him for the amount.

16. The conviction and sentence are therefore, set aside and the accused acquitted. The fine, if paid, will be refunded and the appellant will be discharged from his bail.

Pronounced in open Court,

Sd/ B. NAGAPPA,

12-7-1920.

Sessions Judge.

" C O P Y. "

(28)

(1) S. Krishnamurthi Rao, worked very well when under me and it was in connection with his good work that he was transferred to Government to take charge of Rail-borne staistical work.

Dharwar,
9th March.1892.

Sd/ S. Wood,
Ag: Superintendent, Audit Office,
S? M. Railway.

---

(2) S. Krishnamurthi Rao's work and conduct have been under constant observation in this office for some years past and have always been most satisfactory.

Dharwar,
17th August 1892.

Sd/ J. Partridge,
Auditor, S. M. Railway.

---

(3) Mr. S. Krishnamurthi Rao, served in the Traffic Audit Branch of the S.M.Railway for a period of two years and was transferred to the service of Government as the Head Clerk of the, - - Rail-borne traffic statistical office, Dharwar.

He proved himself to be a reliable and intelligent clerk and his experience would be useful in any Audit or Accounts Office - whether Railway or Governmental.

D h a r w a r,
26th Nov.1893.

Sd/ W. B. Wright,
For Auditor S. M. Railway.

---

(4) Mr. Krishnamurthi Rao, was employed as Head Clerk of the ----borne trade staisistical section brance office at Dharwar for some ten years and performed his duties satisfactorily.

B O M B A Y,
23rd Dec, 1896.

Sd/ C.A.Hosekeign, Major R.E.
Examiner of Guaranteed Railway - Accounts, B O M B A Y.

Copy

(29)

(5) Mr. Krishnamurthi Rao, Accountant, has improved my office wonderfully since he took charge of the same; accounts are up-to-date, references from the Examiner have ceased, attendance on the part of staff is regularized, records can be had when called for.

Sd/ Harry J. Molley,
A.M.I.C.E., M.I.M.E.
Executive Engineer,
French Roacks, Division.

20-2-1902.

---

(6) Accountant, Krishnamurthi Rao of my office is - - intelligent, very good at drawing up memos and office notes for orders. Attentive and painstaking, can manage office fairly - - well.

Septr.1903.

Sd/ D. Ranga Rao.
Executive Engineer,
French Rocks Division.

---

(7) This is to certify that Mr. S.Krishnamurthi Rao, - Accountant of my office has put in service of 16 years and that he holds a substantive appointment on Rs.70/- P.M. and actually draws Rs.85/- at present. I know him for about 4 years and he is a person of good moral chararacter.

Sd/ B. Subba Rao,
Superintending Engineer,
C. R. Works.

28-2-1914.

---

(8) Mr. S. Krishnamurthi Rao is an intelligent and - - capable accountant.

Sd/B.B.Garudacharya,
Executive Engineer, No.1
Sub Division, C.R. Works.

August 1915.

---

(9) Mr. Krishnamurthi Rao, Accountant, is intelligent and capable with quickness in despatch; work found satisfactory.

Sd/B. Subba Rao,
Superintending Engineer,
C. R. Works.

Septr.1915.

Copy

(1) S. Krishnamurti Row, worked very well when under me and it was in connection with his good work that he was transferred to Government to take charge of Rail-borne statistical work.

D H A R W A R.
9th March. 1892.

Sd. S. Wood,
Ag: Superintendent, Audit office
S.M. Railway

---

(2) S. Krishnamurti Roo's work and conduct have been under constant observation in this office for some years past and have always been most satisfactory. ....

D H A R W A R.
17th August 1892.

Sd. J. Partridge,
Auditor, S.M. Railway.

---

(3) Mr. S. Krishnamurti Roo, served in the Traffic Audit Branch of the S.M. Railway for a period of two years and was transferred to the service of Government as the Head clerk of the, Rail-borne traffic statistical office, Dharwar.

He proved himself to be a reliable and intelligent clerk and his experience would be useful in any Audit or Accounts office whether Railway or Governmental.

D H A R W A R.
26th November 1893.

Sd. W. B. Wright,
for Audit, S.M. Railway.

---

(4) Mr. Krishnamurti Roo, was employed as Head clerk of the Rail-borne trade statistical section, branch office, at Dharwar, for some ten years and performed his duties satisfactorily. ....

B O M B A Y.
23rd December.
1896

Sd. C.A. Hosekeign, Major R. E.
Examiner of Guaranteed Railway Accounts,
B O M B A Y.

Copy

Please place in the file of Dewan Saheb

DIARY No. 197

To

The Financial Secretary,

to the Government of Mysore,

Bangalore.

Sir,

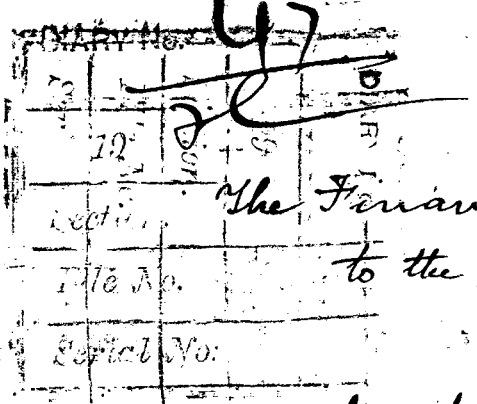
I beg to state that I have submitted my Memorial to His Excellency the Dewan Saheb and find that the records connected with my case would not be complete without a copy of the rules of the Krishnaraja Sagara Co-Operative Society and a brief memo of the facts connected with the charges brought against me which are therefore submitted herewith. I earnestly pray that you will be so kind as to attach these references to the file when it goes up to His Excellency.

In this connection, I would further beg to invite kind reference to bye laws 6(11)-73-75-80482 of the Rules book and to paras 5, 6 & 7 of the learned Sessions Judges judgment together with the last para but one. This, if read as it is latter without adding to or ~~xxxxx~~ subtracting from it, words and clauses, (vide Comptroller's letter No.360/R. dated 23/28th August 1920 para 2) completely exonerates me from all blame as is opened by some able lawyers.

If all these do not satisfy the Dewan Saheb as to my integrity, I may be pardoned and some concession shown to me in my old age when it has become impossible for ~~xxx~~ me to work for my bread, in consideration of my previous long and faithful service.

I beg to remain,
Sir,
Your most obedient servant,
L. Krishnamurthy
Late Accountant.

Bangalore,
13th July 1921.



0233

GEN & REV. SECTT
Scott Circle
3 - JUL 1921

(32)

To The Financial Secretary,
to the Government of Mysore
Bangalore.

Sir -

I respectfully beg to remind you of my applic-ation dt 6th April 1921, enclosing a copy of Mysore Division District and Sessions Judge's endorsement No 4095 dt 26-3-1921 and requesting reconsideration of the question of my reinstatement in service and to request you to be so kind as to let me know how it has been disposed of. You were pleased to tell me personally that you would send up my application to the Dewan Saheb for orders

I beg to remain
Sir
Your most obedient servant

S. Krishnamurtirao
late Accountant, Krishnaraj Sagar Works
No 9, Kempamma's lane
Doddanavalli

Bangalore city
2-7-1921

DIARY No. 3884

1920 — 21

Section 97

File No. 62-20

Serial No. 3

To

The Financial Secretary to Government,

B A N G A L O R E

Sir,

I respectfully beg to place the following facts before you for kind consideration.

2. After you approved of the Comptroller's proposal to dispense with my services even though I had been honourably acquitted by the Sessions Judge of Mysore who set aside the order of conviction --- wrongly passed by the Sub Divisional Magistrate,I was furnished -- with a copy of Comptroller's report to Government.From this report I was able to make out that the Comptroller had put an uncharitable interpretation on the last para but one of the appeal judgment and had based his recommendation (1) upon the judgment of the Sub Divisional Magistrate which became null and void after the appeallate authority had set it aside and (2) upon his own uncharitable interpretation of a portion of the appeal judgment.

3. To my misfortune the Comptroller,I was led to conclude,took the judgment of the Session's Judge in the light of one of partial conviction.On this I applied to the District Judge to favor me with his meaning of the portion of his judgment that had been adversely interpreted by the Comptroller so as to convert the judgment itself from one of acquittal into one of conviction.His endorsement thereon No.4095/820 dated 28th March'21,copy of which is enclosed for kind perusal,establishes beyond all doubt (1) that the prosecution had failed to bring home the charge to me and to establish that I was ever entrusted with any property which I misappropriated dishonestly,(2)that the sentence passed by the Sub Divisional Magistrate under sec.406 I.P.C. was illegal (3) that I was not given the benefit of doubt and (4) that I was honorably acquitted.

4. With this endorsement I saw the Comptroller who kindly perused it and said that he had finally disposed of my case and that he -- would not reopen the question.He also said that he recommended my removal from service on his own view of the case as Head of the Department.

5. Apart from the charge brought against me by the Co-operative Society which has been found to be false,there was no case of

kind against me officially and departmentally and I was never ---- called upon to explain any charges. As can be seen from the record opinions of the several officers whom I had the privilege to serve I have,during the whole of my past service,discharged my duties to their entire satisfaction and maintained an unblemished character. As Cashier in the late Harikanave works where I had to make cash payments to labour to the extent of several thousands of rupees a month and as Accountant for about 17 years,I was never found fault with as being dishonest or untrustworthy.Incompetency and incapacit were never attributed to me .I have not served the present Comptroller directly, at any time.Apart from the case now finally decided by the District Judge in my favor there is no case against me either officially or legally for the Comptroller to dispense with my servic on any account.

6. Since the Comptroller does not seem to be disposed to view my case as it deserves I have approached you with this petition praying that you will be so kind as to reconsider my case in the light of th endorsement of the District Judge now submitted and pass orders for my reinstatement in service and the pay due to me from the d ate I was placed under suspension up to now be ordered to be disbursed.I the Comptroller is unwilling to have me in his department I may be transferred to any other department in the State.

For this act of kindness I will,as in duty bound,ever remain -- grateful.

I beg to remain,

Sir,

Your most obedient ser

Bangalore 6th April 1821.

S.Krishnamurthirao.

Door No 1769, Mavalli,
Bangalore city

(35)

No.4095/820 Encls.2 dated 26th March 1921

Endorsement.

With reference to his application dated 4th March 1921, S.Krishnamurty Rao,"Lakshminivas",Chamarajapet,Mysore, is informed that the undersigned takes it that the applicant has approached this Court with a request to say what is the meaning of the para underlined in the judgment in Mysore Criminal Appeal No.45 of 1918-19 and whether he has been honorably acquitted as required under Article 122(b) of the Mysore Service Regulations.

After perusing the records and the interpretation put upon the judgment in question by the Comptroller,the undersigned is bound to state that the language used in the last para but one of the judgment does not indicate that there is a doubt as to the guilt of the offenc of criminal breach of trust committed by the accused.It is clear from the findings that the prosecution failed to establish that the accused was entrusted with the property with dominion over it and that the accused misappropriated such property dishonestly and in violation of any direction of law prescribing the mode in which such trust was to be discharged.In other words the prosecution did not establish the elements constituting the offence punishable under section 406 I.P.C.Hence the accused was acquitted.He was not given the benefit of doubt.Under these circumstances the undersigned is not prepared to say that the accused was not honorably acquitted.The enclosures to the application are herewith returned.

(signed) B.Nagappa

Mysore,23-3-21 District & Session's Judge.

Copy

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A brief memo of the facts connected with the - charges brought against S. Krishnamurthi Rao, 1st Grade Accountant, belonging to the Establishment under the - Comptroller to the Government of Mysore and attached to the office of the Superintendent of works, Krishnarajasagar works.

I (a) While the memorialist was an accountant - drawing a salary of Rs.100/- a month as stated above, he was unanimously elected as Honorary Secretary by all the members of the local Co-operative Society at Krishnarajasagar works in December 1912.

(b) Himself and the members of the managing - committee being quite ignorant as to the nature of the work o stores Co-operative Society, the entire work of the Society was thrown on the Secretary i.e., this humble memorialist, w conducted the affairs of the society to the best of his abilities and in the best interests of the Society for about 2½ years, during which time the memorialist replenished the stoc of the Society by risking his personal credit with the - merchants at Bangalore, Mysore and other places from whom - stock to the value of 3 or 4 thousand rupees was bought - on credit, in addition to the original stock of the - Society, which was worth hardly two thousand rupees and - which formed the sole capital of the Society. Thus the - business of the Society progressed very well and the members took full advantage of it by purchasing articles from the - society on credit, not only to the maximum of their power to repay but far beyond, as the managing Committe had not -

fixed

(37)

fixed the limit of credit to be allowed to members as required by the Bye-laws. *Vide Rule 52*

(c) This state of affairs continued for about a year and a half and during all this time local merchants who were depending entirely on the officials for sales in their shops (the officials alone being the members of the Society) were grudging its prosperity and were doing all in their power to draw off the purchasers from the Society. The defaulting members then left off purchasing from the Society and took to the private shops. The sales of the Society which were amounting to about Rs.1,500/- a month fell off considerably to about - - Rs.300/- a month and the stock being mostly articles of food and of daily use, began to deteriorate. The humble memorialist became ill at this juncture and went on leave for about 2 months in May 1914, leaving the Society to the care of the -- Managing Committee who left the whole thing to the clerk and peon of the Society. Soon after his return from leave, stock was taken and accounts were audited which resulted, even then, in some profit. The Committee were, somehow, unwilling to declare a dividend and ordered a fresh stock taking and audit. This took another six months.

(d) The Committee in the meanwhile ordered special - steps to be taken for the early disposal of the stock that was deteriorating. This humble memorialist therefore directed - the servant of the Society to sell certain articles in the -- local market and the villages around and to pay the realisations thereof to the Society. This the servant was doing for sometime and then absconded with some money in his hands. Similarly certain other articles were given to a big and respectable firm in Mysore - S. D. Nathmal & Co., - for sale at market - rates and to arrange for the sale proceeds being sent to the Society. The firm accordingly sold some of them and the sale

proceeds

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proceeds were later on utilized by the memorialist in paying the creditors of the Society from whom stock had been purchased by the Society on credit. The receipts obtained from the - - latter were sent over to the Society where they are recorded.

II (a) That at the election of Office bearers in the General meeting held on 16-5-1915 Mr. T. S. Lakshmana Rao & Shroff, M. Ramakrishniah, who were inimically disposed towards the memorialist in connection with their office work (all the three being employed for a time in the same office) succeeded by their machinations to get Mr. Lakshmana Rao and later on - Ramakrishniah, elected as Secretary and joint Secretary of the Society. These two persons managed to file a suit against - the memorialist, when the president of the society was away - from Head Quarters, before the Registrar of Cooperative Societies for recovery of Rs.1,308/- and odd, fraudulently treating the transactions referred to in para I (d) above as unauthorized though the same had been done under the authority of the previous managing Committee, and also including in the claim, the amount due from the memorialist for the purchases he had made and other false items. The Registrar referred the case to a committee of arbitrators. Two of the arbitrators were the - persons instrumental in bringing that case and a criminal - - charge against the memorialist. These so called Arbitrators in spite of protests by the memorialist held that the latter - was liable to pay Rs.1,064/- to the Society and a decree was accordingly passed directing the amount to be recovered out of a moiety of his pay. It may be noted here that this decree includes the price of goods given to the Society peon and - - Nathmal & Co., as detailed in Para I (d) above minus the amounts realized from Nathmal & Co., and paid over to the creditors of the Society.

(b) Against this decision of the arbitrators and without obtaining the permission of the managing Committee, the -

two

(39)

two new Secretaries filed an appeal before the Registrar for recovery in lump sum of the amount alleged to be due. The Registrar without going into the merits of the case and the records and at the instance of the new Secretaries, ordered the prosecution of the memorialist for misappropriation of the Society's funds.

III This criminal case dragged on for over 3½ years and the Magistrate found this memorialist guilty, though wrongly, as can be seen from some of the facts stated here under:-

(a) In the first place, the Magistrate had no grounds to frame a charge against this Memorialist. The prosecution had not proved either the trust of any property or money or dishonest intention on the part of the memorialist. There is not a shred of evidence in the whole case to show that there was any misappropriation or breach of Trust of the Society's properties.

(b) Against Law and common sense, the Magistrate shifted the burden of proof from the prosecution to the shoulders of this memorialist regarding the existance of the ingredients of criminal Breach of Trust.

(c) The judgement is conspicuous by the absence of any remarks about the depositions of the prosecution witnesses which bristle with improbabilities, inaccuracies and contradictions, as to how far they supported the prosecution story; while he critisises most unreasonably the evidence of some of the defence witnesses who are disbelieved, because one of them could not give minor details for the articles (such as exact quantity and cost) handed over to S.D. Nathmal & Co., and this, after a lapse of more than 3½ years. Regarding the 2nd defence witness the Magistrate has altogether misrepresented the facts deposed to by him, showing very clearly that the magistrate had not at all read the evidence on record, nor had he understood any portion of the case. There was absolutely no ground to disbelieve the 3rd defence witness who is one of the proprietors of a large firm in Mysore viz., S.D.Nathmal & Co., carrying on business to the extent of some lakhs of rupees. He is found fault with for not producing his account books of more than 3 years old which were then at Rajaputana with the principal proprietor; and for his ommission, this memorialist is held responsible, although it was the prosecution that required the witness to produce the accounts, of which fact the memorialist was not aware. This memorialist did not know about the prosecution having called upon the witness to produce the account books and as such the memorialist could not be held responsible. The magistrate in this connection refers to Sect. 114 of the Indian Evidence Act. which says that if a party, fails to produce a

document

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document, the presumption should be against the person who fails to do so. Here the prosecution called upon the witness to produce his account books without the knowledge of the memorialist, and the latter is held responsible for the failure of the former.

(d) All the above facts and further arguments which the magistrate gives in his judgment very clearly betray the fact that he neither read the records nor understood the case, but depended entirely on what the Prosecuting Inspector argued, and some of the arguments attributed to the Inspector were never openly said in Court. ~~A copy of the magistrate's judgment with marginal remarks showing how unreasonably and without authority or support of the evidence on record he has arrived at his findings, is also attached for kind perusal.~~

IV Against this judgment, an appeal was filed in the Court of the District & Sessions Judge of Mysore and he acquitted this memorialist of the charge brought against him. With a copy of this judgment this humble memorialist applied to the Comptroller for permission to join the appointment from which he was considered to have been suspended from 1-12-1916. The Comptroller, however, seems to have laid undue and untenable stress on a portion of the appeal Judgment viz., that " the case presented an element of doubt as to the trust or dishonesty and as such a retrial was unnecessary as he has suffered imprisonment and a decree had already been passed against him for the amount" and observed in his recommendation to Government " that he considered it unsafe to retain such a man in service in the Account Department as he had suffered imprisonment and a decree had already been passed against him for the amount -- alleged to have been embezzled" The memorialist most humbly submits that the Comptroller, has entirely misconstrued the scope and effect of the portion of the appeal judgment relied on by him and has been thus misled into making a recommendation to the Government against the memorialist for the reasons stated below:-

(a) The Sessions Judge in appeal has, in the former portions of his judgment, exhaustively dealt with the -

question

(4)

question of guilt or otherwise of the memorialist and come to the conclusion that he was not at all guilty. In para 4 of the appeal Judgment he notes the " curious nature " of the charge - " that you on or about (1) 22-8-1915, - - (2) being entrusted with property worth Rs.400/- dishonestly used that property, (3) in violation of the directions of law, prescribling the mode etc. punishable under section 406 I.P.C. This charge involves 3 points as underlined above. The 1st point falls to the ground, when it is remembered that the new Secretary was elected in May 1915 and that the memorialist - handed over charge to him in June 1915 long anterior to 22-8-15. At any rate goods sent to Nathmal & Co., being in March or - April 1915 and their cost price being Rs.400/-, it is absurd to say that the memorialist was entrusted with this property on 22-8-1915. Then again there is not a tittle of evidence to say who entrusted him and with what property and when. - Regarding (2) dishonest use of this property, there is no - evidence that it was ever used by the memorialist (the word use both in the charge and in Sect. 406 I.P.C bearing a technical meaning e.g., a washerman using a turban given for washing, - a pledgee using the pledged jewel, so as to make the article deteriorate in value). Lastly the prosecution has failed - to show what the direction of law was and how the memorialist violated it nor has the Magistrate even referred to it in - - his judgment.

(b) With regard to the above three objections raised by the memorialsit the Sessions Judge cogently observes:-

(1) that there is no finding by the magistrate as to when and how the sale proceeds were misappropriated.

(2) the charge cannot possibly relate to the alleged misappropriation of the sale proceeds, unless it be shown that he had a dishonest intention to do - so at the time of the sale (to S.D.Nathmal & Co.,) and as such he cannot be held guilty of misappropriation (I. L. R. 41 Cal. 844).

(3)

(42)

(3) There is no evidence that he dishonestly used any property entrusted to him and no such finding by the Magistrate. The evidence clearly shows that the clerk was in charge of the stores and the memorialist was simply supervising the business.

(4) From the rules of the Society and from the evidence on record, it is difficult to find that he was entrusted with property in question or any dominion over it and no such findings by the Magistrate. The Public Prosecutor has failed to convince me of any trust in the case. He may be responsible for the missing goods. This does not involve him in criminal liablity.

(5) The objections therefore must prevail and render the conviction bad in law.

(C) It is only in the latter portion of the judgment, the Sessions Judge discusses the desirability or otherwise of ordering a retrial, in consequence of the legal defects involved in the case and comes to the conclusion that a retrial is unnecessary. He gives reasons for not ordering a retrial - and not for holding that the memorialist was guilty. His reasoning therefore "at any rate the case presents an element of doubt as to the trust or dishonesty and as such a retrial is unnecessary, especially when he has suffered imprisonment and a decree had already been passed against him for the amount." requires to be examined in detail It is necessary to explain the terms underlined above:-

(1) The case presents an element of doubt as to the trust or dishonesty:- As observed by the Judge in his former portions of his judgments, there was no trust or no dishonesty. The element of doubt is not as to the honesty of the memorialist; the doubt is as to the proof adduced by the prosecution to prove the trust or dishonest In other words, the judge holds that the prosecution has not proved the trust or the dishonesty alleged by it and the doubt felt by the judge is whether the case would at all succeed even if a retrial were ordered. He further holds that the trouble and inconvenience and hardship undergone by the memorialist should not be prolonged any longer.

(2) Suffered imprisonment:- "Simply means that he had been sentenced to imprisonment by the magistrate and suffered imprisonment for a few days before he was let on bail by the Sessions Judge ".

(43)

(3) Decree had been passed for the amount:- The Comptroller somehow adds the words "alleged to have been embezzled" which are not found -- in the appeal judgment. This decree has -- reference to the decree passed by the arbitrators and the Registrar, as detailed in paras I (d) & II (a) above.

V It can thus be seen from the above, that the only sentence in the Sessions Judge's judgment which is interpreted as disqualifying this memorialist for continuing - in Government Service or to consider it " Unsafe to retain him in service in the Account Department" as stated by the Comptroller, has been thoroughly misconstrued and misconceived by the Comptroller and the punishment now inflicted on the memorialist on the recommendation based on such -- grounds, after being acquitted by the Sessions Judge on - account of his innocence of the false charge brought against him by persons who had formed a plot to defame him and to - injure his reputation, is altogether unmerited and does not meet the ends of justice, especially when the memorialist - has unnecessarily suffered loss and untold miseries during the last four years and more, as a consequence of this false charge.

VI That this memorialist, after serving the Government of Bombay honestly and uprightly for about 10 years, joined the Mysore Service in 1897 on being offered an appointment of Accountant ship by the late Examiner of P. W. Accounts, Mysore - and during all this time he has maintained an unsullied and unblemished character, discharging his duties very satisfactorily as can be seen from the recorded opinions of the various - officers under whom he served. When the Marikanave Reservoir was being constructed and the work was being carried on under Amani system, this memorialist was the Cashier entrusted with cash payments to the labourers to the extent of about 60 to 80 thousand rupees per month. Mr. C. T. Dalal, the then -- Superintending

(44)

Superintending Engineer in charge of the works, in addition to several recommendations regarding the honesty and the good - work turned out by the memorialist, reported to the Examiner when the memorialist was proposed to be transferred, that out of about 40 officials of his Establishment not one could - - competently replace this memorialist as Cashier. The late - Mr. St. John Buchan, the Examiner has also reported to Government on one oscasion that he specially got this memorialist - from Bombay when there was a dearth of passed and qualified - men in his Department and that the memorialist did excellent work in his office. There are also the recorded opinions - of all the officers under whom the memorialist served from the year 1897 and who have always expressed very favourably of the work and conduct of this memorialist, which may be kindly - - consulted in arriving at a decision on the prayer of the - - memorialist. Copies of a few of the testimonials about the character and capacity of the memorialist are hereto appended.

VII That in the opinion of this humble memorialist - the recommendation of the Comptroller to dispense with the - services of the memorialist after saying that it is unsafe to retain such a man in service in the Account Department, is out of place as it is the Government that has the power of dealing with such cases on their own merits. If he is not wanted - in the Account Department, he may be kindly transferred to any nontechnical Department, as he has secured the necessary - - experience in his long service of about 30 years both under - this and the Bombay Governments and proved his competence to hold any appointment in such a Department.

VIII This humble memorialist therefore most respectfully prays that the Government will be graciously pleased to order his reinstatement in Service to his proper place with such pay as he should have got if he had not been suspended

under

(45)

under the circumstances stated above and to declare that his past services shall count, thus rendering justice to this memorialist who is now in the fag end of his service having just completed his 54th year, in kind consideration of his long, faithful and honest service in the State.

IX In conclusion this memorialist most respectfully submits that in his official capacity as accountant, he was not found fault with as being dishonest or untrustworthy nor was incompetency ever attributed to him to deserve the punishment now inflicted upon him but the charges brought against him was by a quasi public institution and even those charges have been found to be utterly false and unfounded by the learned Sessions Judge.

S Krishnamurtiah

Mysore,

Dated
10th July
1921

BYE-LAWS

OF THE

Cauvery Reservoir Co-operative Society, (Limited.)

PRINTED AT THE SREENIVASA PRESS, MYSORE. 1913.

BYE-LAWS

OF THE

Cauvery Reservoir Co-operative Society, (Limited.)

Name.

The Society shall be called the "Cauvery Reservoir Co-operative Society," (Limited.)

2. Its registered Office should be located at the Cauvery Reservoir works site on both banks of the River.

3. The operation of the Society shall be confined to the Cauvery Reservoir works site on both banks of the River.

4. The liability of its members shall be limited to the extent of their respective shares.

Objects.

5. The objects of the Society shall be:—

(*a*) the furtherance of thrift and providence among the members,

(*b*) the attraction of capital and the grant of credit to the members,

(*c*) the purchase of food stuffs, clothing or other articles of consumption and their retail sale to members,

(*d*) such other object or objects calculated to promote the economic benefit of the members as may be resolved upon by the Society.

Definitions.

6. In these bye-laws:—

(i) the term " Society " means the general body of members assembled at a meeting, inclusive of the members of the Managing Committee,

(ii) the term "Committee" means the Committee for the management of the current business of the Society constituted for the time being under these bye-laws consisting of a President, a Secretary a Treasurer and seven other members,

(iii) Month is the English Calendar month,

(iv) Year is the English Calendar year.

Membership.

7. The members of the Society shall consist of:—

(i) The persons who have subscribed to the application for registration,

(ii) Persons who after registration of the Society are from time to time admitted as members under these byelaws, and

(iii) Such other persons as have already subscribed for one or more shares of the Society and have been duly admitted to membership prior to the date of registration.

BYE-LAWS

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(iii) Such other persons as have already subscribed for one or more shares of the Society and have been duly admitted to membership prior to the date of registration.

8. All persons residing in or carrying on business or holding appointments under Government in the Cauvery Reservoir works shall, be eligible for membership provided they are legally capable of entering into contract.

9. Every person desirous of becoming a member shall send in an application in the prescribed form supported by one of the members of the Society to the Secretary who shall lay the application before the Committee, and the Committee shall dispose of the application within 15 days from the date of its receipt.

10. The Committee may reject any application for membrship without assigning reasons and the person whose application has been rejected may appeal to the general body of members provided that such appeal is supported by not less than 10 members of the Society. The appeal shall be decided at any general meeting following the day of appeal.

11. Every person woose application has been accepted shall pay within 30 days from the date of intimation of acceptance an entrance fee of eight annas and subscribe for at least one share of the Society which may be paid in full or in instalments of one rupee per share.

12. Every person shall on paying the entrance fee and at least one instalment of the value of the share or shares subscribed for, be deemed to have become a member and to have acquired all its rights and liabilities provided that no person admitted under clause (11) of bye-law 7 shall have the right to vote at

a general meetting or to obtain credit from the Society unless and until his name has been for at least one month on the Register of members.

13. The name and address of every person admitted as a member shall be entered in the Register of members.

14. All share amounts and every monthly instalment of the share amount shall be paid at the Office of the Society not later than the 15th of the month for which it is due. Members who fail to pay their instalments in time, shall be charged interest at three pies per rupee per mensem or part thereof.

15. Notwithstanding anything contained in these rules, it shall be competent to the Committee to admit as members such of them as have already joined the Society prior to registration but have not signed the applicaion for Registration.

Cessation of Membership.

16. Membership shall cease:—

(*a*) by resignation,

(*b*) by removal hereinafter prescribed,

(*c*) by bankruptcy

(*d*) by death.

17. In any case of cessation of membership otherwise than by death, the person ceasing to be a member, shall have his dues refunded to him within 3 months from the date of such ceesation after deduction of all sums due by him to the Society. He shall have

no claim on the Reserve or any other assets of the Society. The dues referred to above mean the paid up value of the share or shares together with any dividend or interest or other sum admissible under the bye-laws.

18. If any member is for 3 consecutive months, in default in respect of any monthly instalment due to the Society the Committee shall serve a notice on him requiring him to pay up the dues with interest and any expenses that may have accured by reason of such default.

19. The Committee shall have power to remove a member for being in default for one month in respect of any sum due to the Society after due notice has been served on him and they may proceed to recover the sums due according to law.

20. The Society shall have power to remove any member for any act which in its opinion is likely to be injurious to the credit or reputation or interests of the Society or a serious breach of the bye-laws or rules.

21. (*a*) Within one month of the receipt of reliable information of the death of a member the Committee shall transfer into the Suspense Account the amount standing to his credit. His heir or nominee shall, on the Committee being reasonably satisfied as to the validity of his claim be paid within 3 months of such transfer, the amount so transferred after deduct -ion of all sums due by the deceased to the Society.

(*b*) Nothing contained in clause (a) shall be deemed to prevent the Committee in special circumstan -ces where money may be required to meet the expenses

of the funeral of a deceased member or the immediate and pressing needs of his family, from making under proper safeguards to such member's nominee or heir at any times such advance out of the sum due to the deceased's account as they may think fit.

Capital.

22. The Capital of the Society shall consist of:—
(1) Entrance fees,
(2) Subscribed share amounts,
(3) Deposits and loans raised by the Society,
(4) Any other receipts assignable to capital.

Shares.

23. There shall be 500 shares of the Society of the value of Rs. 10/— each provided that it shall be competent to the Society to increase or reduce the number or value of the shares or both to any extent it thinks fit.

24. Each share shall be entered under a distinctive number and Share Certificates shall be issued in consecutive numbers.

25. No member shall be allowed to have more than 20 shares.

26. No transfer of shares shall be recognised unless it is registered in the Books of the Society on payment of a fee of four annas for a single transfer. If the transferee be not already a member the registration fee shall be eight annas in addition, and the Committee shall have power to accept or reject such transfers.

Raising of Loans.

27. With the previous sanction of the Society, the Committee may raise a loan for any authorised purpose, to such extent, in such manner, and on such terms as may be approved of by the Society; provided that the amount of the loan raised together with deposits if any received shall not exceed the paid up value of the shares allotted.

Deposits.

28. There shall be two kinds of deposits:—

(*a*) Current Deposits,

(*b*) Fixed Deposits.

29. The Committee may receive deposits from members or non-members to such extent as they deem fit; provided that the total amount of deposits shall not at any time exceed the paid up value of the shares taken up; provided also that the total amount of deposits received from non-members shall not exceed one half of the paid up share capital.

30. No sum less than Rs. 5/—for the Current and Rs. 10/—for Fixed Deposits shall be received nor shall interest be calculated on fractions of a ruppee.

31. Interest on Current Deposit shall be allowed for each Calendar month upon the minimum balance of the account between the close of the 4th bay and the end of the month accounts being adjusted every

half year. No interest shall be allowed on sums withdrawn within 30 days of their deposit.

32. Interest on Fixed Deposits shall be payable once in six months on application.

33. The amount of inteaest accuring on all deposits, will, if not drawn, be added to the account at the close of each half year.

34. The rate of interest on Fixed and Current Deposits may from time to time be notified by the Committee subject to the General orders of the Society.

35. The following are the maximum rates of interest allowed on Deposits:—

(i) Current Deposit at $\frac{3}{8}$th pie per rupee per month,

(ii) Fixed Deposit for 6 months at $\frac{7}{8}$th pie per rupee per month,

(iii) Fixed Deposit for 1 year at 1 pie per rupee per month.

36. Fractions of a pie shall be omitted in calculating the amount of interest.

37. Deposits other than fixed may be withdrawn at any time in whole or in part but for over Rs. 10, three days notice may at discretion be demanded.

38. A Depositor may withdraw money only once in seven days. He may not withdraw any sum less than one rupee or any sum that includes a fraction of a rupee except when he finally closes the account.

39. The Committee may return any Current Deposit by giving 30 day's notice to the Depositor, after which period no interest will be allowed.

40. In the case of Fixed Deposit, on the expiry of the period for which it is fixed it shall be treated as a Current Deposit unless it is withdrawn or renewed.

41. To ensure prompt repayment of Deposits a sum not less than 25% of the Deposits shall be placed in the Government or Post Office Savings Bank, the balance only being available to be made use of by the Society.

42. Each Current or Fixed Depositor, shall on payment of one anna be given a Pass Book, wherein all deposits or withdrawls and interest accured will be entered with the initials of the Treasurer.

If the original Pass Book is lost a duplicate will be supplied on payment of a fee of eight annas. When the transactions are finally closed the Pass Book will be returned to the Society.

Short term Loans.

43. Short term loans are granted for the convenience of the members under the following conditions.

(*a*) The amount available for short loans shall be fixed by the Committee from time to time.

(*b*) The amount of the loan that may be granted to a member shall not exceed 80% of the paid up value of the share or shares held by him.

(*c*) The maximum period for which the loan is granted shall not exceed 32 days.

(*d*) Interest at the rate of one pie per 8 days on every two rupees shall be paid in advance by the borrower.

(*e*) If the amount is not repaid on the due date a penalty of $\frac{1}{4}$ pie per rupee will be levied on the defaulters.

44. In case of persistent default for over 30 days the Committee shall have power to appropriate as much of the paid up amount of the share as will satisfy the loan and treat the member as a defaulter.

45. Long loans of over Rs. 25/—for a period not exceeding 6 months can be granted to a member on the joint security of one or more members. Interest on such loans shall be at two pies per rupee per mensem and should be paid before the 10th of every month.

46. Instalement loans for a period not exceeding 10 months can be granted on the joint security of one or more members. Interest on such loans shall be at 10 annas per cent per mensem which is deductable at the time the loan is given. The amount of such loans shall depend on reliability of the members and at the discretion of the Committee. Failure to pay the monthly instalment will involve the payment of an additional interest of one pie per diem for every ten rupees. The amount of the loan will be limited by the total amount of the paid up value of the shares held by the applicant and the sureties.

47. Repayment in part or in entirety of all loans may be accepted before maturity in which case half the proportionate interest for the remaining period of complete months shall be remitted.

48. (*a*) The Committee may at their discretion grant a renewal of any loan for a further period not exceeding that originally granted, provided that at least ¼th of the amount of the loan is repaid before maturity.

(*b*) Applicants for loans or their sureties must not be in default in respect of any previous transactions with, or of any liability to the Society or with or to a surety.

(*c*) No loan shall be given otherwise than on a promissory note or other instrument to be executed by and at the expense of, the borrower. All such pronotes or other instruments shall be executed jointly and severally by the borrower and the surety or sureties from among the members.

(*d*) Absolute punctuality of repayment shall be enforced on pain of such penalty as may be prescribed by the Committee for ordinary and excusable defaults and expulsion for grave or persistent defaults.

49. The interest on every loan shall be prepaid for the full month in which the loan is obtained and for each subsequent month before the 10th of that month till the date of settlement, except in the case of a loan repayable by instalments, the interest shall be prepaid for the full period for which it is granted.

Stores Department.

50. The stores shall consist of articles of consumption and such other articles as the Committee may consider useful to members.

51. Stores shall be issued to members on credit or for cash and to non-members for cash only.

52. Credit will be allowed to members who are not defaulters to the extent and to the period which the Committee may prescribe from time to time.

53. All purchases on credit made in any particular month must be paid for before the 15th of the next month.

54. A penalty not exceeding six pies per rupee per month will be levied on all purchasers who fail to pay up the amount within the time so prescribed. Three consecutive defaults or a persistent default of over 60 days will disentitle a member for any credit in the Stores.

55. No articles will be received for commission sale without the knowledge of the Committee or any person deputed by them for this purpose who will determine the rate of commission and such other terms on which such articles should be accepted.

56. Accounts shall be closed every half year ending on the 30th June and 31st December.

57. In calculating the profits only money actually received shall be taken into account as receipt. Unpaid interest shall not be reckoned.

58. Of the net profits, after payment of interest to depositors and other creditors, if any, as well as the working expenses 25% shall be carried to the Reserve Fund. Out of the remainder, a dividend up to 9% on the paid up share capital and discount on purchases by members may be distributed among the members in such proportion as the Committee under general direction, if any, of the Society may settle from time to time.

59. Dividend shall be given only on such share or shares as are fully paid up at least one month before the close of the half year for which dividends are declared. For every complete sum of Rs. 10 that a member pays, he shall be considered to have fully paid up one share, irrespective of the actual number of shares on which this amount is paid.

60. The Reserve Fund shall consist of:—

(*a*) Sums periodically devoted to it out of the profits,

(*b*) All penalties

(*c*) And such other sums as may be generally prescribed or periodically assigned by the Society.

61. All sums due to the Society, found irrecoverable shall, if they cannot reasonably be charged to the Revenue account be written off with the previous sanction of the Society, by charging them to the Reserve Fund and such cases shall be carefully scrutinised for this purpose from time to time.

General Meetings.

62. The supreme authority in all matters affecting the administration of the Society shall be vested in the Society that is, the General body of members of the Society assembled at a meeting.

63. No alteration of the bye-laws or addition to the objects of the Society or alteration of the number of shares shall be made and no sanction to the raising of a loan accorded at a meeting at which at least, one third of the total number of members on the rolls are not present.

64. Meetings of the Society shall be of two kinds Ordinary and Extraordinary.

65. Ordinary meetings shall be held at least once every half year on such dates and at such places as may be determined by the Committee.

66. The Committee whenever they think fit, and shall, upon a requisition in writing signed by any ten or more members, convene an extraordinary meeting of the Society. In the latter case, the requisition shall specify the business proposed to be placed before the meeting and shall be left at the registered office of the Society and the Committee shall convene the meeting within 30 days from the date of the requisition.

67. If the Committee fails to comply with such requisition (unless with good reasons) it shall be competent for the requisitions themselves to convene the meeting.

68. Notices of the meetings of the Society shall be sent to all members at least 7 days before the dates of holding such meetings and shall specify the subjects to be discussed at or placed before the meetings.

69. No business shall be transacted at any adjourned meeting other than the business left unfinish -ed at the meeting from which the adjournment took place, or a business, of which the prescribed noitce shall have been duly given.

70. Every member shall been titled to only one vote irrespective of the number of shares held by him.

71. All questions before a Genearl meeting shall be decided by a majority of votes and in cases of equality of votes the President or Chairman shall have a casting vote.

72. No voting by proxy shall be allowed except by previous permission of the President in case of females and no defaulter shall be allowed to vote in General meetings.

Committee of Management.

73. The management of the current business of the Society shall be entrusted to a Committee of not less than 7 members, a President, a Secretary, a Treasurer and any other office bearers who shall be elected by the Society for a term of one year or until their successors are appointed. The retiring members shall be eligible for re-election.

74. Any casual vacancy occuring in the Committee shall be filled up by the remaining members provided that any person chosen to fill a vacancy shall retain his office so long only as the person in whose stead he is chosen would have done if no vacancy had occurred.

75. The powers and duties of the Committee shall be as follows:—

(*a*) To dispose of applications for membership.

(*b*) To fix the rates of interest on Deposits from time to time.

(*c*) To hear and dispose of complaints.

(*d*) To fill up all appointment on the staff of the Society and to grant leave to, to fine, to suspend, or to dismiss any employee on the staff.

(*e*) To arrnge for the purchase of the Stores and for their retail sale at prices to be fixed from time to time or for the fulfilment of any other objects of the Society.

(*f*) To recive and disburse moneys belonging to the Society and to take stock from time to time of all its goods and other properties.

(*g*) To keep the accounts of the Society.

(*h*) To check and pass the accounts to examine the vouchers and to prepare at the close of every half year (ending on 30th June and 31st December) a Balance Sheet showing clearly the extent of the business done by the Society under specific heads including

all receipts and expenditure, the arrears due on loans and liabilities of the Society, the amount of the Reserve Fund and the Society's general position financially. Such Balance Sheets with statements of profit and loss, shall be published for the information of the members and the depositors in such manner as may be desirable and convenient and not later than sixty days from the close of the half year.

(*i*) To frame subsidiary rules not inconsistent with these bye-laws.

(*j*) To perform all other acts connected with the administration of the Society and the transaction of its business which are not by these bye-laws specifically reserved to the Society.

76. The Committee shall meet at least once in every month, and at every such meeting five members including the office bearers shall form a quorum.

77. The Society shall for every half year appoint an Auditor, whose duty it will be to check the accounts of the Society every month and prepare Quarterly and Half yearly Balance Sheets for the information of the Committee. He will be paid such remuneration as the Society may fix from time to time.

78. All questions shall be decided by a majority of the votes of the members present. In cases of equality of votes the Chairman shall have a casting vote.

79. In the absence of the President, the members present may elect any one amongst themselves to be the Chairman of the meeting.

80. The Secretary shall have power to sign papers and transact business on behalf of, and under the instructions of the Committee.

81. Subject to the limitations to be fixed from time to time by the committee, the custodian of the Society's funds shall be the Treasurer.

82. The duties of the Secretary, the Treasurer and other office bearers, if any, shall be as may from time to time defined by the Committee.

83. All vouchers for sums received shall be issued over the signatures of the Secretary and Treasurer.

84. The Committee may from time to time appoint from among themselves or other members as many special Committees (consisting of not less than 5 members each) as may be needed for the transaction of the Society's business.

85. All such special Committees shall be subject to the general control of the Committee.

86. Any membeer shall have a right to inspect the books of the Society during office hours on presentation of an application to the Secretary explaining clearly the object of the inspection. The Secretary may refuse any such application specifying reasons for such refusal, in which case an appeal lie to the Committee.

87. The Society shall furnish to the Registrar, Periodical Returns, Proceedings of the Committee and general meetings and such other information as may be required by him from time to time.

88. The Society may become a member of and take Shares in any central or District Co-operative Bank.

89. Any claim or dispute in respct of the business of the Society between any person or Society who is or has been a member, depositor or creditor of the Society, or who claims through any one who is or has been a member, depositor or credior and such Society or its Committee or any of its officers, shall be referred to the Registrar for decision. No Civil Court shall have jurisdiction to adjudicate any such matters.

(1) The Registrar's decision shall be final and conclusive unless appealed against to Government within one month from the date of such decision or order.

(2) All orders passed by the Registrar may be executed either by him or through a Deputy Commissioner or throug the Heads of various offices in which the members are employed.

" Approved "

(Sd.) M. A. NARAYANA IYENGAR,

Offg. *Registrar.*

Members of the Committee:—

Chairman:

MR. B. B. GARUDACHARYA.

Honoary Secretary:

MR. S. KRISHNAMURTI RAO.

Treasurer:

MR. S. SSEENIVASA IYER.

Members:

MR. K. ANANTACHARYA.

„ T. LAKSHMAN RAO.

„ L. A. WINKER.

„ R. W. SCALDWELL.

„ T. VENKATARAMANA SASTRY.

„ C. KUPPUSAMY PILLAI.

„ T. ARUNACHALA IYER.

46

(5) Mr. Krishnamurti Roo, Accountant, has improved my office wonderfully since he took charge of the same; accounts are pu to date, references from the Examiner have ceased, attendence on the part of staff is regularized, records can be had when called for. ... ...

20-2-02. Sd. Harry J. Molley,
A.M.I.C.E, M.I.M.E.
Executive Engineer,
French Rocks, Division.

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(6) Accountant Krishnamurti Roo of my office is intelligent, very good at drawing up memos and office notes for orders. Attentive and painstaking, can manage office fairly well.

September. 1903. Sd. D. Ranga Roo,
Executive Engineer,
French Rocks Division.

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(7) This is to certify that Mr. S. Krishnamurti Roo, Accountant of my office has put in a service of 16 years and that he holds a substantive oppointment on Rs. 70/ P.M. and actually draws Rs.85/ at present. I know him for about 4 years and he is a person of good moral charector.

28-2-14. Sd. B. Subba Row, L.C.E.
Superintending Engineer,
C.R. Works.

---

(8) Mr. Krishnamurti Roo is an intelligent and capable accountant.

August 15. Sd. B.B. Garudacharya, L.C.E.
Executive Engineer, No.1 Sub Division, C.R. Works.

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(9) Mr. Krishnamurti Roo, Accountant is intelligent and capable with quickness in despatch, work found satisfactory.

September 15. Sd. B. Subba Row, L.C.E.
Superintending Engineer,
C.R. Works.

G. R. S. VI.—G/9]

(47)

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

GENERAL AND REVENUE SECRETARIA

DATED *Bangalore*, 27 July 1921

No. R 450
G 762-104

ENDORSEMENT.

Granted to Mr. S. Krishnamurthi Rao

Late accountant. K. R. S. Works

no. 9. Kempanna's lane, Doddamavalli

Bangalore city.

With reference to ~~his petition~~ ~~dated~~ ~~in which~~ ~~praying~~ ~~for~~ ~~reconsideration~~ ~~of his application dated~~ ~~and for~~ reinstatement in service, Mr. S. Krishnamurthi Rao is ~~informed that~~ ~~asked to forward for reference~~ forwarding a copy of the judgment from the Dist. & Sessions Judge Mysore in Mil. Criminal Appeal 8/21 dated 6.4.21 requesting

In reply to his petition dated 13.7.21

I return the Appeal endorsement ~~in original~~ of the District & Sessions Judge, Mysore, ~~stating~~ ~~that his judgment should not be modified as Honourable acquitting him.~~ ~~Respondent in~~ ~~appeal~~ ~~has been~~ accepted.

By Order,

[illegible]
for Secretary to Government

WD 1251—GPB—5,000—4-2-19

MARY No. 38 7C (48)

1920 - I. 21
Section. G7
Title No. 62-20
Serial No. 5

Newspaper
28/7/21

The Financial Secretary
to the Government of Mysore,
Bangalore.

Sir,

In obedience to your endorsement — No H 450 / GF.62-20-4 dt 27th Instant, I beg to enclose herein the original endorsement granted to me by the District and Sessions Judge of Mysore for kind reference and obliging return.

I beg to remain
Sir,
your most obedient Servant
S Krishnamurtirao
Late Accountant

Bangalore
28th July '21

49.

CONFIDENTIAL.

No. Fl 3116/G762-20-6 dy 10:12.1921
Eu. one only

M.N.Krishna Rao, Esq., B.A.,

B.Nagappa, Esq., Bar-at-Law.
District and Sessions Judge,
BANGALORE.

I am directed to state that endorsement No.4095/820 dated 26th March 1921 (copy enclosed) issued by you as - District and Sessions Judge, Mysore to S.Krishnamurti Rao was not in order, as a Judge cannot give an extra judicial interpretation of his judgment.

I have the honour to be,
Sir,
Your most obedient servant,

Financial Secretary to Government

MK.2.

G. R. S. VI—G/32]

Confidential

SUBJECT.....

.....

.....

Diary No. of letter replied to

Section

File No.

Serial No.

General and Revenue Secretariat

( )

, *the* 191 .

No.

Date of issue

Signed by

To

Mr B. Nagappa
District Sessions Judge
Bangalore

Sir,

I am directed to forward herewith copy of endorsement no 4095 dt 26-3-21 given by you as Sessions Judge to Mr. S. Krishnamurti Rao, late accountant, Comptroller's Office in Mysore, in Criminal appeal no 45 of 1918-19, I am directed to State

over.

to State that endorsement no dt (copy enclosed) issued by you as Sessions Judge Mysore to S Krishnamurti Rao was an order

I was a proper course for me to take an appeal against interpretation of this judgment

8-12-21

(51)

~~that~~ and to state that in the opinion of your ~~Department~~ ~~Government~~ ~~that~~ the extra-judicial interpretation given by you in this case ~~was~~ does not ~~does~~ appear to be in order.

I have etc

~~Yours~~ H Secy.

List of enclosures.

Copied by

Examined by

G.R.S. VI–71]

2 Boards (52)

SUBJECT.....

Diary No. of letter replied to.....

Section G7
File No. 62-20
Serial No. 7

General and Revenue Secretariat

( )

Proceedings of the Government of
His Highness the Maharaja of Mysore.

the 191

Read— correspondence ending

Representations ~~ending~~ with ~~their~~ letter dated 13-7-21 ~~& 28-7-21~~ from Mr S. Krishnamurti Rao, late accountant, comptroller's office, requesting for reasons stated that Govt may be moved to order his reinstatement in Service or the grant of a compassionate allowance.

Date of issue 10-12-1924

Signed by Mr. J. Appaji Gowda

R. O. note no 135/R/50. M.A.D. dt 8.11.21 from the comptroller to Govt in the matter.

~~Order Thereon No.~~

Order no. R 3117/Ex-once only

Govt are pleased

A compassionate allce of Rs 13-3-0 (Rupees thirteen & annas three only) is sanctioned to the Accountant from date of his removal from service.

May this be

i Printed ?

ii treated as a standing order ?

iii published in the Gazette, English Part ? D

iv translated ?

v placed at the disposal of the press ?

vi published in the Gazette, Kannada Part ?

3

(53)

To direct that a compassionate allowance of Rs 13-3-0 (Rs thirteen and annas three only) may be sanctioned by the Accountant (admissible The rules).

Sd/ Sd/ v
for Jt Secy.

To. The comptroller with the Service Register of the applicant.
No. Jt [illegible]
Copy to the petitioner (with the original endorsement given by the Dt & Sessions Judge.)

List of enclosures.

Copied by

Examined by

WD 1744—GPB —30,000—17-3-19

Proceedings of the Government of His Highness the Maharaja of Mysore.

154

Vide Lr. dt. 26/1 below

Read:-

Correspondence ending with letter dated 28th July 1921 from Mr.S.Krishnamurti Rao, late accountant, Comptroller's Office requesting for reasons stated that Government may be moved to order his reinstatement in service or the grant of a compassionate allowance.

Un-official Note No.135/R.50 M.A.D. dated 8th November 1921 from the Comptroller to Government in the matter.

Order No. 11

Dated Bangalore the December 1921.

A compassionate allowance of Rs.13-3-0 (Rupees Thirteen and annas three only) is sanctioned to the Accountant from date of his removal from service.

Financial Secretary to Government.

To

The Comptroller, Mysore Government with the service register of the applicant.

Endorsement No. 4095/820 dated 26th March 1921. (55)

With reference to his application dated 4th March 1921, S. Krishnamurti Rao, 'Lakshmivilas', Chamarajapet, Mysore is informed that the undersigned takes it that the applicant has approached this court with a request to say what is the meaning of the para underlined in the judgment in Mysore Criminal Appeal No. 45 of 1918-19 and whether he has been honourably acquitted as required under Article 122 (b) of the Mysore Service Regulations.

After perusing the records and the interpretation put upon the judgment in question by the Comptroller, the undersigned is bound to state that the language used in the last para but one does not indicate that there is a doubt as to the guilt of the offence of criminal breach of trust committed by the accused. It is clear from the findings that the prosecution failed to establish that the accused was entrusted with the property with dominion over it and that the accused misappropriated such property dishonestly and in violation of any direction of law prescribing the mode in which such trust was to be discharged. In other words the prosection did not establish the elements constituting the offence punishable under section 406, I.P.C. Hence the accused was acquitted. He was not given the benefit of doubt Under these circumstances the undersigned is not prepared to ~~state~~ say that the accused was not honourably acquitted.

The enclosures to the application are herewith returned.

Sd. B. Nagappa.
District and Sessions Judge.

Mysore,
23rd March 1921.

"C O P Y"

Sd. B J. Appaji Gowda

For Financial Secretary to Government.

TS.

Confidential 56

G. R. S. VI—G/32]

SUBJECT.....

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.....

Diary No. of letter replied to.....

General and Revenue Secretariat

( )

, *the* 191 ..

Date of issue 29.12.21

Signed by Mr J. Appaji Gowda

for information

Section 47

File No. 62-20

Serial No. 8

No. H 3325

To The Registrar, chief court,

Sir,

I am directed to forward herewith copy of letter no 8 addressed to Mr B. Nagappa, District and Sessions Judge, Bangalore

I have etc

for H Secy

29/12

over.

№ 34

D 2823

294[illegible]

To

G.F. 62-20-9

The Financial Secretary to the
Government of Mysore
Bangalore

GEN & REV. DEPT.
1 - JAN 1922

Sir,

I beg to request you that you will be so kind as to return to me the original endorsement given to me by the District and Sessions Judge of Mysore sent to you with my letter dated 28th July 21 in accordance with your № 7L450 G.F. 62-20-4 dated 27th idem.

I beg to remain,
Sir
Your most obedient Servant

S. Krishnamurthiah
'Lakshmi Nivas'
Chamarajapet

Mysore
31-12-21

No 29

28186

DIARY No. 4775

19 — 1922
Section
(58)

SECTT.
DEC 1921

To The Financial Secretary
to Government
Bangalore

Sir -

I beg to request you will be good enough to return to me the original endorsement of the District Judge of Mysore submitted with my letter dy 28th July 1921 as required in your letter No H 450/GF62-20-4 dy 27th Idem as I want it for reference.

I beg to remain
Sir
Your most obdt Servt
S. Krishnamurthirao
"Lakshminivas"
Chamarajpet

Mysore
14-12-21

R/4/1
-6'50.

G. R. S. VI—G/32]

SUBJECT.....

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Diary No. of letter replied to.....

General and Revenue Secretariat

( )

, *the* 191 .

Date of issue 6 Jan 1922

Signed by Mr appaji Gowda

Section G7

File No. 62-20

Serial No. 10

No. H 3396

Endorsement granted

To Mr S. Krishnamurthi Rao

'Lakshmi vilas'

Chamaraj Pet

Mysore

As requested by him in his letter dt 14.12.21, the original endorsement no 4095/82 dt 26.3.21 given to him by the Dist & Sessions Judge, Mysore is herewith returned.

By order.

for H Secy

over.

31195

DIARY No. 3068

60

Chief Court of Mysore,
Bangalore, 21st January 1922.

24 JAN 1922

From

G. Srinivasa Iyer, Esq., B.A.,M.L.,
Registrar of the Chief Court of Mysore,
B a n g a l o r e.

To

M. N. Krishna Rao, Esq., B.A.,
Financial Secretary to the Government of
H. H. the Maharaja of Mysore,
B a n g a l o r e.

S i r,

With reference to your letter No.nil dated the 25th December 1921 forwarding copy of your letter No.Fl. 3116/G.F. 62-20 dated 10th December 1921 addressed to Mr. B. Nagappa, District and Sessions Judge, Bangalore, I am directed to state that the Judges believe that the usual course in such cases is to invite the Chief Court to convey the views of the Government to the Judges of subordinate Courts and consider that direct communication to a District Judge of orders relating to his judicial acts, or his conduct is liable to be productive of inconvenience; and I am to request that if the Government have no objection the practice of communicating their orders to the inferior courts through the medium of the Chief Court may be adhered to.

I have the honor to be,
S i r,
Your most obedient servant,

Srinivasa Iyer
REGISTRAR.

TMN/2

G. R. S. VI—G/32]

Received at 5-2 P m 1/2/22

61

SUBJECT.....

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.....

Diary No. of letter replied to.....

General and Revenue Secretariat

( )

, *the* 191 ..

Date of issue 4 Feby/22

Signed by W Mukundappa

Section :

File No.

Serial No

No. H 3881

To

The Registrar, Chief Court.

Sir,

With reference to your letter no ~~D~~ D. Dis no 70 & 21.1.22 noticing the ~~irregular~~ procedure in having forwarded this office letter no R 3116/9.7 62-20 & 10.12.21 direct to Mr Nagappa, Dist & Sessions Judge, Bangalore, I am directed to state that the transmission of the communication referred to ~~was not sent~~ ~~transmitted through~~

over.

direct to Mr. Nasmyth and not through
the Chief Constable by an oversight
in the Office which is regretted. I have the
honour to forward herewith a Report
& Correspondence in order
that the Final Report
may be completed - but this was overlooked
by the Office and when
this Constable arrived
discovered
was
Stafford

I have etc.

Sec'y.

~~Copy to Law & Judl Branch.~~

List of enclosures.

Copied by

Examined by

A503

63

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

FINANCIAL SECRETARIAT,

No. Fl. 3881 / 2762-24

Dated Bangalore, 4 February 1922.

From

M.N. Krishna Rao, Esq., B.A.,

Financial ~~Counsel~~ Secretary to the Government of His Highness the Maharaja of Mysore.

To

G. Srinivasa Iyer, Esq., B.A., M.L.,
Registrar, Chief Court, Bangalore.

Sir,

With reference to your letter No. D. Dis 70 dated 21st January 1922, I am directed to state that the transmission of the communication referred to direct to Mr. Nagappa and not through the Chief Court was due to an oversight which is regretted.

I have the honor to be,

Sir,

Your most obedient servant,

Sd. M. N. Krishna Rao

~~For~~ Financial Secretary to Govt.

C O P Y to Judicial Secretariat.

SR/1
c.n.